

United States
Circuit Court of Appeals
For the Ninth Circuit.

DUVAL JACKSON,

Petitioner,

vs.

SAMUEL L. BOYD, as Trustee in Bankruptcy of THE
LANE LUMBER COMPANY, LIMITED, a Cor-
poration, Bankrupt,

Respondent.

In the Matter of THE LANE LUMBER COMPANY,
LIMITED, a Corporation, Involuntary Bankrupt.

Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress,
Approved July 1, 1898, to Revise, in Matter of
Law, the Decree of the United States District
Court for the District of Idaho,
Northern Division.

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*The United States Circuit Court of Appeals for the
Ninth Circuit.*

THE LANE LUMBER COMPANY, LTD.,

A Bankrupt.

In the Matter of DUVAL JACKSON,

Petitioner.

**Petition [to U. S. Circuit Court of Appeals] for
Review.**

To the Honorable Judges of the United States Circuit Court of Appeals for the Ninth Circuit.

The petition of Duval Jackson respectfully shows unto the Court:

First: That on the 7th day of October, 1912, your petitioner filed with the referee his petition, a certified copy of which is hereto attached and made a part hereof, and covers pages — to —, inclusive.

Second: That on the 22d day of October, 1912, the trustee of the said Lane Lumber Company, Ltd., filed with the referee his answer to said petition, a certified copy of which is hereto attached and made a part hereof, and covers pages — to —, inclusive.

Third: That on the 11th day of November, 1912, said petition and answer came on for hearing before the referee on briefs of the respective parties thereto, and at the said time the Court made an order therein granting your petitioner the relief prayed for in said petition, a certified copy of which order is hereto attached and made a part hereof, and covers pages — to —, inclusive.

Fourth: That thereafter and on the 20th day of November, 1912, the trustee in said matter filed his petition for review [1*] and the same was by the said referee duly certified by the Honorable F. S. Dietrich, District Judge of said district.

Fifth: That on the 29th day of November, 1912, said petition and answer came on for hearing before the Honorable F. S. Dietrich, District Judge of said district, at the regular November term of court, held at Coeur d'Alene, County of Kootenai, State of Idaho, in said district, and after argument of counsel for the respective parties, the Court took the matter under advisement, and on the 3d day of December, 1912, reversed the decision of the referee, and on the 6th day of December, 1912, *enter* findings of fact and conclusion of law, a certified copy of which is hereto attached and made a part hereof and covers pages — to —, inclusive.

Sixth: That on the said third day of December, 1912, said District Judge made and filed his memorandum decision in said matter, a certified copy of which is hereto attached and made a part hereof, and covers pages — to —, inclusive.

Seventh: That on said third day of December, 1912, said District Judge rendered his decree in said matter, and on the sixth day of December, 1912, filed the same with the clerk of said court, a certified copy of which is hereto attached and made a part hereof, and covers pages — to —, inclusive.

Eighth: Your petitioner charges the fact to be that the said District Court erred in making and fil-

*Page-number appearing at foot of page of original certified Record.

ing his decree in said matter, and in denying petitioner the relief asked in said petition, and your petitioner is aggrieved thereby, and therefore prays this Honorable Court to review and revise the decision of said Court below.

Ninth: Your petitioner therefore prays that such decree of the district court be set aside and held for naught, and that by the order of this Court it be decreed that the trustee of said Lane Lumber Company, Ltd., refund to your petitioner [2] the \$2,000.00 prayed for in his petition, and that your petitioner be given such other and further relief as shall be proper.

DUVAL JACKSON,

Petitioner.

By FRANK W. REED,

EUGENE V. BOUGHTON,

Attorneys for Petitioner, Coeur d'Alene, Idaho.

CLAY H. ALEXANDER,

Attorney for Petitioner, Kansas City, Mo.

State of Idaho,

County of Kootenai,

In Said District,—ss.

F. W. Reed, being first duly sworn, deposes and says that he is a member of the firm of Reed & Boughton, attorneys for petitioner, in the foregoing matter, and makes this affidavit for and on behalf of said petitioner, he being acquainted with the facts, and does hereby make solemn oath that the statements contained in the foregoing petition are true ac-

according to the best of his knowledge, information and belief.

F. W. REED.

Subscribed and sworn to before me this 21st day of January, A. D. 1913.

[Seal]

N. D. WERNETTE,

Notary Public. [3]

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

**Petition [to U. S. District Court for Order Requir-
ing Trustee to Make Repayment of \$2,000.00].**

Now comes Duval Jackson, by his attorneys, Reed & Boughton, and represents to this Honorable Court:

I.

That on the 24th day of June, 1912, he made a proposal to purchase certain property of the above-named bankrupt, which proposal was in writing, a copy of which is hereto attached and made a part hereof and marked Exhibit "A"; that on said 24th day of June, 1912, your petitioner made a proposal to purchase certain other property of the above-named bankrupt, which proposal was in writing and a copy of which is hereto attached, and made a part hereof, and marked Exhibit "B."

II.

That in pursuance of such proposals, and according to the terms thereof, your petitioner deposited

with the Trustee in Bankruptcy in said matter the sum of One Thousand (\$1,000.00) Dollars on each of said proposals, as evidence of the good faith of petitioner, which sums were to be returned to your petitioner in case the trustee failed to secure the acceptance and confirmation of each of said proposals.

III.

That thereafter and on the 27th day of June, 1912, the trustee in bankruptcy in said matter made and filed a petition for confirmation of sale of the real and personal property of said bankrupt, to your petitioner, and that a copy of the said petition for confirmation of sale is hereto attached, made a part hereof, and marked Exhibit "C." On the 29th day of June [4] 1912, a notice of hearing on the order to show cause was issued by the Court in said matter, setting Monday, the 15th day of July, 1912, at 11 o'clock A. M., as the time for hearing said order, a copy of which said notice is hereto attached, made a part hereof, and marked Exhibit "D."

IV.

That thereafter and on the 10th day of July, 1912, your petitioner sent a telegram to the trustee of the above-entitled estate, withdrawing the propositions for purchase of the property of said bankrupt, and that a copy of said telegram is hereto attached, made a part hereof, and marked Exhibit "E"; that on the same day your petitioner also sent a telegram to the referee in bankruptcy in said matter, and that a copy of said telegram is hereto attached, made a part hereof, and marked Exhibit "F."

V.

That on the said 10th day of July, 1912, your petitioner mailed two written withdrawals of the proposals to purchase the property of said bankrupt, a copy of which written notices *are* hereto attached, made a part hereof, and marked Exhibit "H" and Exhibit "I"; that said written withdrawals were received by the Referee on the 15th day of July, 1912, at 8:45 o'clock A. M.; that on the 15th day of July, 1912, notwithstanding the notice of withdrawal of said proposals to purchase the property of said bankrupt, an order was made by the Court in said cause, confirming the sale of the property mentioned in said proposals of purchase, except certain lumber and logs mentioned in said order; that a copy of said order of confirmation is hereto attached, made a part hereof, and marked Exhibit "J." [5]

VI.

That thereafter, and on July 26th, 1912, said Court confirmed a sale of about 300,000 feet of cedar logs of said bankrupt, and all of the lumber of said bankrupt described on pages one to eighteen, inclusive, of the Appraisers' report filed in said court, said lumber and logs being the same as excepted from the order of confirmation of sale to your petitioner; that a copy of the order confirming the sale of said logs and lumber is hereto attached, made a part hereof, and marked Exhibit "J."

WHEREFORE, your petitioner prays that an order may be made requiring the trustee in said matter to pay to your petitioner, or his attorneys, Reed & Boughton, the sum of Two Thousand (\$2,000.00)

Dollars, the same being a repayment of the Two Thousand Dollars deposited with said trustee on the 24th day of June, 1912, according to two proposals for purchase of certain property of said bankrupt.

Dated this fourth day of October, A. D. 1912.

DUVAL JACKSON,

Petitioner.

By REED & BOUGHTON,

His Attorneys. [6]

State of Idaho,

County of Kootenai,—ss.

F. W. Reed, being duly sworn, deposes and says that he is a member of the firm of Reed & Boughton, attorneys for the above petitioner, and makes this verification for the reason that said Duval Jackson is not within the State of Idaho; that he has read said petition, knows the contents thereof, and that the same is true.

F. W. REED.

Subscribed and sworn to before me this 15th day of October, 1912.

LAWRENCE L. LEWIS,

Referee. [7]

Exhibit "A."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

Proposal to Purchase Certain Property.

Before LAWRENCE L. LEWIS, Referee in
Bankruptcy.

To Samuel L. Boyd, Trustee in Bankruptcy of Lane
Lumber Company, Limited:

The undersigned proposes to purchase of you, subject to the confirmation and approval of the above-entitled court, all of the property and assets of the Lane Lumber Company of whatsoever kind, character, or description, excepting only its timber lands and including all the property, save only said timber lands scheduled in the schedule and inventory annexed to your petition to sell real and personal property filed in the above-entitled court on the —— day of February, 1912, which said petition, with schedule and inventory attached, is now on file in said court and reference to which is hereby made; excepting only from said schedule and inventory the timber lands above referred to and certain assets which have been sold, or otherwise disposed of by you, report of which are likewise now on file in the above-entitled cause.

This proposal includes all of the lumber of said company scheduled in said schedule as 3,186,631 feet in quantity, all of the moldings scheduled in said schedule and inventory as amounting to 58,524 lineal feet in quantity, all of the lath in said schedule scheduled as amounting to 334,600 pieces, all of the logs of the company scheduled in said schedule as amounting to 17,715 mixed logs in quantity; all of the stable supplies, wagons, boat-houses, boat docks, rowboats,

livestock, office furniture and fixtures, tools, mill supplies, realty and equipment, cooking utensils, furniture, *tools*, tugboat, barge, boom-stick and boom-chains.

Also including the following real estate and property situated in Kootenai County, Idaho:

All lands in lots numbered five (5) and six (6) of Section thirty-one (31) of Township Forty-eight (48) North, Range Three (3) W., B. M., lying between the Oregon Railroad & Navigation Company track and the Coeur d'Alene River, and all land in lot numbered six (6) of section thirty-one (31), township forty-eight (48) north, range three (3) W., B. M., lying south of the Oregon Railroad & Navigation Co. Railroad track that is below the elevation of twenty-one hundred and twenty-eight (2,128) feet above mean sea level.

The mill is situated on lot five (5) and the Lumber Yard on lot six (6).

Commencing at the northeast corner of section one (1), township forty-seven (47) north, range four (4) W., B. M., running thence west along the township line one thousand (1,000) feet to a point on said township line; thence north at right angles to said township line to the south bank of the Coeur d'Alene [8] River; thence in the northeasterly direction along the said south bank of the Coeur d'Alene River to a point where the same intersects the range line dividing ranges three (3) and four (4), township forty-eight (48); thence south to a place of beginning, all of said land being situated in lot two (2), section thirty-six (36), township (48) north, range

four (4) W., B. M.; also all of land in lots seven (7), eight (8), and nine (9), in section thirty-one (31), township forty-eight (48) north, range three (3) W., B. M., that is below the elevation of twenty-one hundred and twenty-eight (2,128) feet above the mean level of the sea.

The blacksmith-shop, storehouse and barn are situated on the land above described in lot two.

Along the Coeur d'Alene River in front of lot two (2), section thirty-six (36), township 48 N., range 4 W., B. M., and lots 5, 6, 7 and 8, section thirty-six (36), township 48 north, range four (4) W., B. M., are piling and booms which have been and now are used by the Lane Lumber Company, Ltd., Bankrupt, for receiving and storing logs.

E. $\frac{1}{2}$ lot 1, section 1, Twp. 47 N., R. 3 W., B. M., north of O. R. & N. Railroad, portion of lot 4, sec. 6, Twp. 47 N., R. 4 W., B. M., north of O. R. & N. Railroad; in both tracts about 17 acres, with office building thereon.

There is a dispute relative to the title of the above land, A. A. Crane of Harrison, Idaho, claiming it, and the officers of the bankrupt claiming that he agreed to convey and did convey said land to the bankrupt, but that the deed conveying it was insufficient and they returned it to him for correction and he neglected to correct and return the deed to the officers of the bankrupt. Record and Company's vouchers show payment of \$680 for the above land, purchased in fall of 1908.

Lot eight (8), section fourteen (14), township forty-eight (48) north, range two (2) W., B. M., con-

taining two and one-half ($2\frac{1}{2}$) acres, more or less.

On the above-described land there are situated two houses and one shed, one house is rented at \$5.00, per month, another vacant.

Commencing at the point on the north side of the O. R. & N. right-of-way, at a point where said O. R. & N. right-of-way crosses the west line of the northwest quarter of section thirteen (13), township forty-eight (48) north, range two (2) W., B. M., thence easterly and along said right-of-way of O. R. & N., to "Old Water Tank Ditch," thence to a northeasterly direction along the "Water Tank Ditch" to the Coeur d'Alene River; thence southwesterly along said river to the west line of the northwest quarter of section thirteen (13), township 48 north, range two (2) W., B. M., on the west and "Old Water Tank Ditch" on the east, and the right-of-way of the O. R. & N. on the south and the Coeur d'Alene River on the north.

On the above-described land is a barn, oil-house, blacksmith-shop, storehouse and wagon-shed. The last above-described land is where the first mill of the Land Lumber Company was situated, *where* was destroyed by fire August 21, 1908; along the Coeur d'Alene River in front of the above-described land are piling and booms which were used by the Lane Lumber Company for receiving and storing logs.

Lot three, block five, village of Harrison.

Two three-room cottages on the above land, rented at \$6 and \$9 per month.

I understand that the quantities specified in said *scheduled* and inventory and above referred to may

not be in all respects accurate, and that there may be more or less of the several items mentioned therein than are specified in said inventory and schedule. Whatever the quantities may actually be, all of the property of the company, with the exceptions hereinabove specified, are covered by this proposal. The prices set opposite and several items mentioned in said schedule are not deemed accurate by the undersigned, but the bid is made as a lump bid on the property as a whole. [9]

For this property the undersigned offers you the sum of \$69,519.40, of which sum I deposit with you at this time the sum of \$1,000.00 as evidence of my good faith, to be returned to the undersigned in case you fail to secure the acceptance and confirmation by the court to this proposal. The further sum of \$39,000.00 is to be paid by the undersigned on July 24, 1912, and the further sum of \$29,519.40 is to be paid September 24th, 1912, at which time you are to convey to me all of the property aforesaid by good and sufficient deeds and instruments of conveyance, and deliver actual possession thereof to the undersigned.

Upon the making of the payment of the further sum of \$39,000 I agree that the insurance now on the said property shall be properly endorsed so as to make the same payable in the first instance to you as trustee in bankruptcy as your interest may appear, in order to protect your estate in the payment of the further sum of \$29,519.40; the remaining interest in the insurance to be carried, of course, on my behalf.

From the foregoing property it is probable that an exception must be made of all the 16-ft. fir and tamarack logs of the said Lane Lumber Company, Limited. By an order entered in the above-entitled court and cause on the 13th day of June, 1912, a contract of sale of all of the 16-ft. fir and tamarack logs, estimated at 1,000,000 or over, and located on the Coeur d'Alene River in the boom works at or near Harrison, and in Lake Killarney, Idaho, were authorized to be sold by the trustee to the Atlas Tie Company, at the rate of \$7.50 per M. Should such transaction be consummated by the Atlas Tie Company, the undersigned shall receive credit in his bid for the full amount of logs so sold at the rate of \$7.50 per M., said credit to be applied on the last of the payments to be made by the undersigned to you as trustee. Should, however, the Atlas Tie Company fail or neglect to consummate said sale, then and in that event the said logs may be delivered by said good and sufficient instruments of conveyance and by delivery of possession thereof to the undersigned without deduction on account.

Within fifteen days from this date you are to deliver to my attorneys, Messrs. Graves, Kiser & Graves, at Spokane, Washington, abstracts of title covering all of the real property herein described, showing unencumbered title clear of encumbrances save those mentioned herein, for the examination of my attorneys. Should their examination disclose that the title to any of the tracts is defective in so substantial a manner as to affect my willingness to go on with this transportation, I have the right,

within fifteen days after receipt of said abstracts, to require you either to clear said title or to refund me the initial payment, in case you are unable to do so. Should this proposal to purchase be accepted by and approved by the Court, it is with the distinct and express understanding of all parties concerned that the damage for failure on my part to complete the fulfillment of any part of this proposal is to be limited to such payments as have been made.

Dated this 24th day of June, 1912.

(Signed) DUVAL JACKSON. [10]

Exhibit "B."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

Proposal to Purchase Certain Other Property.

Before LAWRENCE L. LEWIS, Referee in
Bankruptcy.

To Samuel L. Boyd, Trustee in Bankruptcy of Lane
Lumber Company, Limited;

The undersigned hereby propose to purchase of
you, as such trustee, all of the timber lands of the
Lane Lumber Company, Limited.

A description of said timber lands which you have
handed to me and in reliance on which I have made
this proposal, is as follows, to wit:

Township 48-1 E.

E. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 5..... 80 Acres

There is some dispute relative to the title of this land and it cannot be finally determined until the differences between the State Bank of Commerce, of Wallace, Idaho, and the Lane Lumber Company, Limited, a Corporation, Bankrupt, are adjusted. Record title in State Bank of Commerce. Receiver notified not to transfer.

Township 49-1 E.

S. $\frac{1}{2}$ NE. $\frac{1}{4}$ and the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 17..160 Acres

Township 45-1 W.

SW. $\frac{1}{4}$ S. 28.....160 Acres

Township 48-1 W.

NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ and S. $\frac{1}{2}$

of SW. $\frac{1}{4}$ S. 12.....160 Acres.

Township 49-1 W.

SE. $\frac{1}{4}$ S. 3.....160 Acres

SW. $\frac{1}{4}$ S. 3.....160 Acres

SW. $\frac{1}{4}$ S. 5.....160 Acres

W. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. 22..... 80 Acres

SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ and E. $\frac{1}{2}$

SW. $\frac{1}{4}$ S. 27.....160 Acres

Deeded to Ada D. Crosfeld, subject to bond.

Township 47-2 W.

Lot 5 S. 1.....42.29 Acres

Lot 6 S. 1.....41.77 Acres

Lot 7 S. 1.....41.07 Acres

Lot 8 S. 1.....40.35 Acres

Township 48-2 W.

W. $\frac{1}{2}$ SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ S. 2.....120 Acres

SE. $\frac{1}{4}$ NE. $\frac{1}{4}$. N. $\frac{1}{2}$ SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$

| | |
|--|-------------|
| SE. $\frac{1}{4}$ S. 8..... | 160 Acres |
| E. $\frac{1}{2}$ SE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ S. 9..... | 120 Acres |
| SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ S. 9.... | 80 Acres |
| Lot 1 S. 15..... | 35.75 Acres |
| N. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 16..... | 80 Acres |
| N. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 16..... | 80 Acres |

[11]

Township 49-2 W.

| | |
|--|----------|
| SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ S. 26..... | 40 Acres |
|--|----------|

Township 49-2 W.

| | |
|---|----------|
| E. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 35..... | 80 Acres |
|---|----------|

Township 48-3 W.

| | |
|------------------|-------------|
| Lot 7 S. 31..... | 42.80 Acres |
| Lot 8 S. 31..... | 16.10 Acres |
| Lot 9 S. 31..... | 20 Acres |

Township 48-1 E.

| | |
|--|-----------|
| NW. $\frac{1}{2}$ S. 1..... | 160 Acres |
| E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ and NW. $\frac{1}{4}$ | |
| SW. $\frac{1}{4}$ S. 26..... | 160 Acres |
| E. $\frac{1}{2}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ | |
| SW. $\frac{1}{4}$ S. 26..... | 160 Acres |
| NE. $\frac{1}{4}$ S. 35..... | 160 Acres |
| SE. $\frac{1}{4}$ S. 35..... | 160 Acres |

Township 49-1 E.

| | |
|--|-----------|
| S. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. 13..... | 80 Acres |
| NE. $\frac{1}{4}$ S. 14..... | 160 Acres |
| NW. $\frac{1}{4}$ S. 14..... | 160 Acres |
| SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ S. 14..... | 40 Acres |
| E. $\frac{1}{2}$ NE. $\frac{1}{4}$ S. 15 and E. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 15... | 160 Acres |
| NE. $\frac{1}{4}$ S. 22..... | 160 Acres |
| NW. $\frac{1}{4}$ S. 22..... | 150 Acres |

There is some dispute repative to title of NW. $\frac{1}{4}$ S. 22 and it cannot be finally determined until the differences between the State Bank of Commerce, of Wallace, Idaho, and the Lane Lumber Company, Limited, a corporation, Bankrupt, are adjusted. Re-core title in State Bank of Commrce. Receiver notified not to transfer.

S. $\frac{1}{2}$ NE. $\frac{1}{4}$ S. 24.....80 Acres

NW. $\frac{1}{4}$ NW. $\frac{1}{4}$ S. 24.....40 Acres

SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ S. 24.....40 Acres

W. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 24.....80 Acres

Township 44-2 E.

NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ S. 29.....40 Acres

Township 47-2 E.

W. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 22.....80 Acres

N. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. 22.....80 Acres

SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ S. 27.....40 Acres

NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ S. 28.....40 Acres

SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$

SE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ SW. $\frac{1}{4}$ S. 30....160 Acres

E. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 34.....80 Acres

SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ S. 34.....40 Acres

N. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 34.....80 Acres

Lot 1 S. 34.....40.91 Acres

Township 47-2 E.

Lot 4 S. 35.....40.77 Acres

Township 49-2 E.

SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ and W. $\frac{1}{4}$

NW. $\frac{1}{4}$ S. 1.....160 Acres

W. $\frac{1}{2}$ NW. $\frac{1}{2}$ S. 4.....80 Acres

SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$

NW. $\frac{1}{4}$ S. 6.....160 Acres

Lot 10, S. 19.....37.56 Acres
W. $\frac{1}{4}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW.

$\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 20.....280 Acres
NW. $\frac{1}{4}$ S. 21.....160 Acres

Lot 1 S. 30.....40.63 Acres
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$

SEC. S. 33.....160 Acres
N. $\frac{1}{2}$ NE. $\frac{1}{4}$ and N. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 34.....160 Acres

Township 50-2 E.

W. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 3.....80 Acres
E. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 4.....80 Acres

SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ S. 6....80 Acres
Lot 3, S. 6.....45.99 Acres

Lot 5, S. 6.....37.38 Acres
S. $\frac{1}{2}$ SE. $\frac{1}{4}$ and E. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. 20.....160 Acres

NE. $\frac{1}{4}$ S. 27.....160 Acres
W. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ and SW. $\frac{1}{2}$

SE. $\frac{1}{4}$ S. 8.....160 Acres
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, and N. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 29....160 Acres
E. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ and SE. $\frac{1}{4}$

NW. $\frac{1}{4}$ S. 35.....160 Acres
SE. $\frac{1}{4}$ S. 35.....160 Acres

Township 44-3 E.

NE. $\frac{1}{4}$ S. 36.....160 Acres
[12]

As an evidence of my good faith in making this bid, I hand you herewith the sum of \$1,000.00 and I offer you for the said timber land the sum of \$70,-480.60, payable \$35,000 on December 24th, 1912, and \$34,480.60 March 24, 1913, each of said payments to bear interest at the rate of six per cent per annum from July 24th, 1912, interest to be paid at maturity

on each payment.

I have had no opportunity to determine your title to these timber lands, or to determine the quantity of timber upon them, and I am therefore compelled to rely upon the representations contained in the above specifications and the prices set forth in your schedule. It is understood and agreed as a condition of this proposal that I have until September 24th in which to examine the titles and to scale the timber lands in order to determine whether or not the estimates of values comprehended in said inventory are correct, and whether or not the title to said land is as represented in said schedule. If I find it to fail in a substantial particular thereof I am entitled to have my original payment of \$1,000 returned to me on demand on or before December 24th, 1912. No trifling variation shall be sufficient to vitiate this proposal on my part.

At the time of making the last payment, you are to convey to me the whole of the property therein scheduled by good and sufficient deeds and instruments of conveyance, and to deliver to me the right of possession of the whole of said lands and every part thereof save only the property referred to as being in litigation. As to this, quitclaim deeds of your interest will be sufficient.

Should you fail to accept this bid or fail to have your acceptance confirmed by the Court and be thereby not enabled to consummate to the conditions specified in this proposal, then and in that event, you are to return to me the said sum of \$1,000 hereby deposited with you as evidence of good faith.

Within thirty days from this date you are to furnish abstracts to me showing unencumbered title clear of encumbrances, save those mentioned herein, for the examination of my attorneys. Should their examination disclose that the title to any of the tracts is defective in so substantial a manner as to effect my willingness to go on with this transaction, I have the right within fifteen days after receipts of said abstracts, to require you either to clear said title or to refund me the initial payment in case you are unable to do so. Should this proposal to purchase be accepted by you and approved by the court, it is with the distinct and express understanding of all parties concerned that the damage for failure on my part to complete the fulfillment of any part of this proposal is to be limited to such payments as have been made.

Dated this 24th day of June, 1912.

[Signed] DUVAL JACKSON. [13]

Exhibit "C."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

Petition for Confirmation of Sale of Bankrupt's Real and Personal Property.

To Honorable LAWRENCE L. LEWIS, Referee in Bankruptcy.

The petition of Samuel L. Boyd, trustee, respectfully shows:

That on February 6th, 1912, your petitioner filed a petition for the sale of the real and personal property herein; that thereafter, after due notice to all creditors, this court on March 2d, 1912, made and filed an order "Approving and Authorizing Private Sale of the Real and Personal Property by the Trustee, Subject to the Approval of the Court, After Due Notice to all Creditors":

That thereafter your petitioner disposed of the following parts and parcels of said estate:

Southwest Quarter (SW. $\frac{1}{4}$) of Sec. 28, Twp. 45 N., R. 1 W., B. M., Kootenai County, Idaho, for \$2,537, the appraised value;

Northeast Quarter of the Northwest Quarter (NE. $\frac{1}{4}$ NW. $\frac{1}{4}$) of Sec. 29, Twp. 45 N., R. 2 E., B. M., Shoshone County, Idaho, for \$1,625, the appraised value.

Northeast Quarter (NE. $\frac{1}{4}$) of Sec. 36, Twp. 44 N., R. 3 E., B. M., Shoshone County, Idaho, for \$5,056, the appraised value.

The wood set forth on page 14 of said order, appraised at \$25, has been used and disposed of by your petitioner during the administration of the estate;

Thirty-Three (33) sacks of rolled barley and one hundred ninety-three (193) sacks of oats, set forth on

page 27, of said order, have been fed to the live stock of the bankrupt;

The new houseboat, set forth on page 27 of said order, has been sold for the appraised value;

The shack at the mouth of Killarney Ditch, set forth on page 36 of said order, has been sold;

1,075,000 feet of the mixed logs, set forth on page 37 of the said order, have been sold, leaving a balance of about 1,000,000 feet on hand;

The blacksmith outfit situated at Camp "K," Killarney Lake, Kootenai County, Idaho, set forth on page 36 of said order, has been sold at its appraised value, \$25.

Two sets of logging sleighs, without chains, set forth on page 27 of said order, have been sold for more than their appraised value, to wit, \$120.

The Burroughs Adding Machine, \$200 equity, has been increased \$——, which amounts was paid thereon by the Trustee, vesting absolute title thereto in him, and the value thereof is figured at \$375 in said bid;

Goods received from the Anderson Lumber and Hardware Co. as part payment of their open account, stored in the granary at Harrison, Idaho, and not included in the Inventory, Appraisement, Petition for Order of Sale, have been included as an asset [14] of the value of \$750 in the bid;

That your petitioner has received two bids on and for the residue and remainder of said estate by Duval Jackson, of Kansas City, Missouri, bidding therefor the sum of One Hundred Forty Thousand (\$140,000.00) Dollars, which is more than 75% of the ap-

praised value of said property, as disclosed by the Appraisers' report on file; that said original proposals to purchase were filed herein on June 27th, 1912; that full, true and correct copies of said proposals to purchase are hereto attached made a part hereof, marked Exhibit "A" and "B"; Exhibit "A" being the proposal to purchase all of the real and personal property of the bankrupt, except the timber lands; Exhibit "B" being the proposal to purchase the timber lands of the bankrupt, excluding all the other real and personal property;

That in order to deliver said property to the purchaser it is necessary for your petitioner to have given ten days' notice, as required in the order of sale herein, given to all the creditors, so that the creditors herein may determine whether or not they desire for said sale to be confirmed by this Court.

Your petitioner is of the opinion and verily believes that a larger sum than is above bid cannot be obtained, and advises that the said real and personal property be sold and delivered to the bidder, for the reason that said sawmill, planing-mill and personal property have been and are rapidly deteriorating in value; that the estate has been and is now to considerable expense in keeping said property insured from fire, paying the taxes thereon, and in keeping watchmen to protect the same; that this estate cannot be kept intact any longer without great expense and risk from fire; all of which expense will continue unless said sale is confirmed and the property converted into money.

That in the opinion of your petitioner, said estate

is unlikely to produce better results and he verily believes that each of the proposals to purchase should be accepted and the sale confirmed;

WHEREFORE your petitioner respectfully prays that notice be given to the creditors and that an order be made confirming said sale and authorizing him to deliver proper deeds and instruments of conveyance to said bidder, for the said properties upon the terms and conditions as set forth in said proposals to purchase and for such further relief as to the Court may seem just and proper.

SAMUEL L. BOYD,
Petitioner.

State of Idaho,
County of Kootenai,—ss.

Samuel L. Boyd, the petitioner and trustee mentioned and described in the foregoing petition, does hereby make solemn oath that the statements contained therein are true according to the best of his knowledge, information and belief.

SAMUEL L. BOYD,
Trustee.

Subscribed and sworn to before me this 27th day of June, 1912.

JOSEPH B. HOGAN,
Notary Public. [15]

Exhibit "D."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

Notice of Hearing on Order to Show Cause.

To the Creditors and all Other Persons in Interest
of the Lane Lumber Company, Limited, a Corporation, of the City of Harrison, in the County of Kootenai, State of Idaho and District Aforesaid, a Bankrupt:

Whereas, to wit, on the 27th day of June, A. D. 1912, the petition of the trustee of said estate for the approval and confirmation of a proposed sale of the residue and remainder of the property, both real and personal, all and singular, of the above named bankrupt, as is more fully set forth and described in said petition, and proposed sale being for seventy-five per cent (75%) of the appraised value of said property, as disclosed by the appraisers' report on file herein, having been duly filed in said cause, and

Whereas, on, to wit, the 28th day of June, A. D. 1912, an order to show cause why the prayer of said petition should not be granted, was duly made and entered herein;

Notice is hereby given that on, to wit, Monday, the 15th day of July, A. D. 1912, at 11 o'clock in the forenoon of said day, at the law offices of the under-

signed referee in bankruptcy, located in the Otterson block in the city of Coeur d' Alene, State and district aforesaid, a hearing on said order to show cause will be held, together with such other matters as may properly come on to be heard at said time.

Dated at Coeur d' Alene, Idaho, in said district, this 29th day of June, A. D. 1912.

LAWRENCE L. LEWIS,
Referee in Bankruptcy. [16]

Exhibit "E."

**Telegraphic [Withdrawal, Addressed to Trustee, of
Proposals to Purchase Certain Property].**

TELEGRAM.

July 10th, 1912.

Samuel L. Boyd,

Trustee in Bankruptcy of the Lane Lumber
Company,

Coeur d' Alene, Idaho.

I withdraw my two proposals under date of June Twenty-fourth, Nineteen Hundred and Twelve, for the purchase of the timber lands real estate, property and assets of the Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt.

All bids or propositions made by me are hereby withdrawn and have also sent you notice to that effect by mail to-day.

DUVAL JACKSON. [17]

Exhibit "F."

**Telegraphic [Withdrawal, Addressed to Referee, of
Proposals to Purchase Certain Property].**

TELEGRAM.

To Lawrence L. Lewis,
Referee in Bankruptcy,
District of Idaho,
Northern Division,
Coeur d' Alene, Idaho.

I withdraw my two proposals under date of June Twenty Fourth, Ninteen Hundred and Twelve, for the purchase of the timber lands, real estate, property and assets of the Lane Lumber Company, Limited, a corporation, Involuntary Bankrupt.

All bids or propositions made by me are hereby withdrawn and have also sent you notice to that effect by mail to-day.

DUVAL JACKSON. [18]

Exhibit "G."

**[Withdrawal, Addressed to Trustee, of Proposals to
Purchase Certain Property.]**

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

Before LAWRENCE L. LEWIS, Referee in Bankruptcy.

To Samuel L. Boyd, Trustee in Bankruptcy of the
Lane Lumber Company, Limited:

Under date of the 24th day of June, 1912, I made a certain proposal to purchase of you, subject to the confirmation and approval of the above-entitled court in the above-entitled cause all the property and assets of the Lane Lumber Company, Involuntary Bankrupt, of whatsoever kind, character or description, excepting only its timber lands, and including all of the property save only said timber lands scheduled in the schedule and inventory annexed to your petition to sell real estate and personal property filed in the above-entitled court on the — day of February, 1912, which said petition with schedule and inventory attached, now on file in said court, and reference to which is hereby made, excepting only from said schedule and inventory the timber lands above referred to and certain assets which have been sold, or otherwise disposed of by you, report of which are likewise now on file in the above-entitled cause and for a more specific description of said property and proposal I hereby refer to said proposal made by me.

I hereby notify you that I desire to and do hereby withdraw said proposal to purchase property, and withdraw each and all the proposals and propositions made in reference to said property and each and every part of the same, and hereby withdraw from your consideration any proposal of purchase or bid heretofore made relative to the purchase to any real estate, property or assets or any part thereof, of the Lane Lumber Co., Limited, a corporation, Involuntary Bankrupt, and hereby request that the

amount deposited by me with said proposal be returned to me.

Dated this 10th day of July, 1912.

DUVAL JACKSON. [19]

Exhibit "H."

**[Withdrawal, Addressed to Referee, of Proposals to
Purchase Certain Property.]**

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

Before LAWRENCE L. LEWIS, Referee in Bank-
ruptcy.

To Samuel L. Boyd, Trustee in Bankruptcy of Lane
Lumber Company, Limited.

Under the date of the 24th day of June, 1912, I made a proposal to purchase of you, as trustee, subject to the confirmation and approval of the above-entitled court, all of the timber lands of the Lane Lumber Company, Limited, for a full description of said lands I hereby refer to said proposal.

I hereby notify you that I desire to and do hereby withdraw said proposal to purchase property, and withdraw each and all proposals and propositions made in reference to said property and each and every part of the same, and hereby withdraw from your consideration any proposal of purchase or bid heretofore made relating to the purchase of any of

the timber lands, property, or assets or any part thereof, of the Lane Lumber Company, Limited, a corporation, Involuntary Bankrupt, and hereby request that the amount deposited by me with said proposal be returned to me.

Dated this 10th day of July, 1912.

DUVAL JACKSON. [20]

Exhibit "I."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

**Order of Referee Confirming Private Sale of the
Real and Personal Property of the Bankrupt to
Duval Jackson, Excepting Lumber and 300,000
Feet of Cedar Logs, etc.**

Samuel L. Boyd, trustee herein, on February 6th, 1912, filed a duly verified petition praying for an order permitting him to sell at private sale, free and clear of all liens and encumbrances, the real and personal property of the bankrupt; that on February 7th, 1912, the Referee herein, caused due and legal notice to be given to all creditors and lien claimants of the bankrupt setting the hearing on said petition for February 20th, 1912; that on February 20th, 1912, upon application of some of the creditors of the bankrupt, said hearing was continued to and until February 24th, 1912; that on February 24th, 1912,

the hearing was had on said petition by virtue of said notice;

That on March 2d, 1912, an order was made and entered herein approving and authorizing private sale, free and clear of all liens and encumbrances, of all of the real and personal property of the bankrupt by the trustee, subject to the approval of the Court, after due notice to all creditors;

That on June 27th, 1912, the trustee herein filed a duly verified petition for the confirmation of the sale of all of the remainder of the real and personal property of the bankrupt that in accordance with the order of the Court heretofore made and entered herein on July 1st, 1912, due and legal notice was given to all the creditors and lien claimants of the bankrupt, setting the hearing on said petition for the confirmation of the sale of all of the remainder of the real and personal property of the bankrupt referred to in said petition filed June 27th, 1912; said hearing being set for July 15, 1912; that on July 15, 1912, said hearing was had in pursuance of said notice and no objections were made to the sale of said real and personal property referred to in said petition filed June 27th, 1912; the Court being fully advised in the premises and deeming it for the best interests of the estate did and does hereby confirm the sale of said real estate and personal property referred to and described in said petition save and except 300,000 feet of cedar logs and all of the lumber of the bankrupt described on pages 1 to 18, inclusive, of the Appraisers' Report filed herein; and it is

Ordered that the appraised value of the said logs and lumber shall be deducted from the purchase price to be paid by said Duval Jackson.

It is further ordered that upon the receipt of the said total sum of \$107,733.35 that the trustee execute and deliver to said Duval Jackson, the proper deeds and bills of sale for the above referred to real and personal property, free and clear of all liens and encumbrances;

It is further ordered that said trustee keep an accurate account thereof and file the same with the Referee.

Dated July 15th, 1912.

LAWRENCE L. LEWIS,
Referee. [21]

Exhibit "J."

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

**Order of Referee Confirming Sale of Lumber, Lath
and Molding to A. W. Lammers, etc.**

Samuel L. Boyd, trustee herein, on February 6th, 1912, filed his duly verified petition praying for an order permitting him to sell at private sale, free and clear of all liens and encumbrances, the real and personal property of the bankrupt; that on February 7th, 1912, the Referee herein caused due and legal

notice to be given to all of the creditors and lien claimants of the bankrupt, setting the hearing on said petition for February 20th, 1912; that on February 20th, 1912, on application of some of the creditors of the bankrupt, said hearing was continued to and until February 24th, 1912; that on February 24th, 1912, the hearing was had on said petition by virtue of said notice;

That on March 2d, 1912, an order was made and entered herein approving and authorizing private sale, free and clear of all liens and encumbrances, of all the real and personal property of the bankrupt, as a whole or in parcels, by the trustee, subject to the approval of the Court, after due notice to all creditors;

That on July 12th, 1912, the trustee herein filed a duly verified petition for the confirmation of the sale of all of the lumber, lath and molding of the bankrupt, situated at Harrison, Kootenai County, Idaho; that in accordance with the order of this Court heretofore made and entered herein on July 12th, 1912, due and legal notice was given to all the creditors and lien claimants of the bankrupt, setting the hearing on said petition for the confirmation of the sale of all of said lumber, lath and molding of the bankrupt referred to in said petition, said hearing being set for July 26th, 1912; that on July 26th, 1912, said hearing was held in pursuance of said notice and no objection was filed by any creditor or person in interest to the sale of said lumber, lath and molding referred to in said petition; the Court being fully advised in the premises and deeming it for the

best interests of the estate, did and does hereby confirm the sale of said personal property, consisting of lumber, lath and molding, as described in trustee's petition for confirmation of this sale;

It is further ordered that upon receipt of said sum of Twenty-One Thousand (\$21,000.00) Dollars, being the total purchase price, that the trustee execute and deliver to said A. W. Lammers the proper bill of sale for the above referred to lumber, lath and molding, free and clear of all liens and encumbrances.

It is further ordered that upon the receipt of Ten Thousand Dollars (\$10,000.00) on or before Saturday, July 27th, 1912, said A. W. Lammers shall by this order be empowered to enter upon the premises, take possession of the personal property consisting of lumber, lath and molding and manufacture the same into merchantable products, and have the use of the planing-mill, power plant and equipment necessary to machine and load said lumber, lath and molding, including the use of one or two teams of horses, if necessary, free of any additional charge. with the express [22] understanding that said A. W. Lammers pay the cost of all labor used in the milling and loading of the said personal property; furnish his own oil and waste and leave said planing mill and equipment in as good order and condition as the same now is, reasonable wear and tear excepted; that the said A. W. Lammers shall have the use of the said planing-mill and premises of the bankrupt for the purpose aforesaid until January 1st, 1913, without any additional charge;

That the deferred payments on said purchase price

of Twenty-one Thousand (\$21,000.00) Dollars, besides the Ten Thousand (\$10,000.00) Dollars payment referred to shall be made as follows:

On or before October 10th, 1912. . . . \$3500

On or before November 9th, 1912. . . 3500

On or before December 10th, 1912. . . 4000

In the event of total or partial destruction of said planing-mill by fire or the elements, the deferred payments shall be extended a reasonable length of time in order to give said purchaser an opportunity to handle the stock elsewhere;

Immediately upon taking possession of the said planing-mill and premises adjoining the same, the purchaser shall take out employer's insurance on all of the men in his employ during all times that he operates said planing-mill, and pay the premium or premiums thereon;

That the trustee shall deliver to said purchaser insurance policies on said lumber, lath and molding in the total sum of Twenty-one Thousand (\$21,000.00) Dollars, made payable to the said purchaser as his interest may appear in the amount of money which said purchaser has advanced on the purchase price of said escrow with the bill of sale.

Dated this 26th day of July, 1912.

LAWRENCE L. LEWIS,

Referee in Bankruptcy.

[Endorsed]: Filed Nov. 23, 1912. A. L. Richardson, Clerk. [23]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

**Answer to Petition of Duval Jackson for Refund of
\$2,000.00.**

Before LAWRENCE L. LEWIS, Referee in
Bankruptcy.

Now comes Samuel L. Boyd, trustee of the Lane Lumber Company, Limited, bankrupt, and in answer to the petition of Duval Jackson for refund of Two Thousand (\$2,000.00) Dollars denies, admits and alleges as follows:

1.

Admits paragraph one.

2.

Admits paragraph two, but alleges that the reason and only reason your trustee and this Court did not confirm the bids made by the petitioner in full was on account of his withdrawal before the time set for confirmation; that the proposals to purchase submitted by petitioner provided:

“Should this proposal to purchase be accepted by you and approved by the Court, it is with the distinct and express understanding of all parties concerned that the damage for failure on my part to complete the fulfillment of any part of this proposal, is to be

limited to such amounts as have been made.”

3.

Admits paragraph three.

4.

Admits paragraph four.

5.

Admits paragraph five. [24]

6.

Admits paragraph six, but alleges that the reason therefor is set forth in the petition for confirmation of the sale of the lumber belonging to the bankrupt filed herein on July 12th, 1912, and as set forth in the petition for confirmation of the sale of 300,000 feet of cedar logs, at \$7.50 per M., belonging to the bankrupt, filed herein on July 30th, 1912.

Further answering said petition your trustee alleges that said Duval Jackson well knew that on August 1st, 1912, there would be due and payable to the Northern Trust Company of Chicago, Illinois, the sum of Twelve Thousand Five Hundred (\$12,500) Dollars and interest, on the bonded indebtedness of the bankrupt, and he further knew that your trustee had no money on hand with which to pay said indebtedness and that your trustee was relying upon the fulfillment of his purchase in order to raise said sum for the said purpose; that your petitioner did everything on his part to be done as required by said proposals to purchase; that nothing was done by your trustee to affect the title of the property covered by petitioner's bid until after the petitioner attempted to withdraw his bid; that the reason your petitioner demanded and received Two Thousand Dollars

(\$2,000) earnest-money from said Duval Jackson, was to assure the estate of the good faith of said Duval Jackson; that it was agreed between your trustee and said Duval Jackson if said sale was not consummated on account of any default on the part of Duval Jackson, that he should forfeit the said Two Thousand Dollars (\$2,000), which agreement was set forth in writing and is a part of the bids.

WHEREFORE, your trustee prays that said petition be dismissed, that the Two Thousand Dollars (\$2,000) earnest-money be retained by your trustee, and that said Duval Jackson go hence without day.

SAMUEL L. BOYD,

Trustee.

By E. N. LA VEINE,

Attorney for Trustee. [25]

State of Idaho,

County of Kootenai,—ss.

E. N. La Veine, being first duly sworn, deposes and says, that Samuel L. Boyd, trustee herein, is without State of Idaho and is unable to make this verification personally; that before leaving the State of Idaho he instructed this affiant, as his attorney, to make the foregoing Answer; affiant does hereby make solemn oath that the statements contained in the foregoing Answer are true according to the best of his knowledge, information and belief.

E. N. LA VEINE,

Attorney for Trustee.

Subscribed and sworn to before me this 22d day of October, 1912.

[Seal]

W. F. McNAUGHTON,
Notary Public.

[Endorsed]: Filed Nov. 23, 1912. A. L. Richardson, Clerk. [26]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.

**Order [of Referee Granting Petition of Duval
Jackson].**

The Petition of Duval Jackson, having heretofore come on for hearing before the Court, and the same having submitted on brief by the petitioner, and the brief of the trustee, also reply brief of petitioner, and the Court having taken the same under advisement and being fully advised in the premises, and for the following reasons, to wit:

1. The offers and each of them to purchase the property of the Lane Lumber Company, except the timber and the cut-over lands, were never accepted or confirmed by the Court as submitted;

2. That Duval Jackson, the petitioner, had the legal right to withdraw his bids and each of them, prior to their acceptance by the Court.

Therefore, it is hereby ordered, that the petition of Duval Jackson be, and the same is hereby granted, and the said Samuel L. Boyd, trustee, is

hereby directed to pay the petitioner Duval Jackson, or his attorneys, Reed & Boughton, the Two Thousand (\$2,000.00) Dollars heretofore deposited with the said trustee.

Given under my hand this 11th day of November, A. D. 1912.

L. L. LEWIS,
Referee in Bankruptcy.

[Endorsed]: Filed Nov. 23, 1912. A. L. Richardson, Clerk. [27]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,
Involuntary Bankrupt.
DUVAL JACKSON,

Petitioner,

vs.

SAMUEL L. BOYD, Trustee of the LANE LUM-
BER COMPANY, Limited, a Corporation,
Bankrupt.

Findings of Fact and Conclusions of Law.
FINDINGS OF FACT.

The petition in this cause by Duval Jackson, on review by the trustee, demanding the return by the trustee of \$2,000.00 paid on the purchase price of the property of the bankrupt, having come on regularly for the hearing before the Court without a jury, on

petition of the trustee for review of the order made herein by the referee on the 21st day of November, 1912, requiring the trustee herein to refund \$2,000.00 to Duval Jackson, from the facts presented by the pleadings, all allegations therein not denied being admitted by the parties, the Court finds the facts as follows, to wit:

1.

That on the 24th day of June, 1912, Duval Jackson made certain proposals to purchase the property of the above-named bankrupt, which proposals were in writing, copies of which are attached to the petition of Duval Jackson and marked Exhibits "A" and "B";

2.

That in pursuance of said proposals, and according to the terms thereof, said Duval Jackson deposited with the trustee the sum of \$2,000.00, as evidence of his good faith. [28]

3.

That thereafter and on the 27th day of June, 1912, Samuel L. Boyd, trustee herein, made and filed a petition approving said sale and asking for the confirmation thereof by this Court; a copy of which is attached to the petition of Duval Jackson and marked Exhibit "C."

4.

That on the 29th day of June, 1912, a notice of hearing was given by said Referee to all of the creditors of the bankrupt, setting Monday, the 15th day of July, 1912, at 11 o'clock A. M., as the time for hearing said petition; a copy of which said notice is

attached to the petition of Duval Jackson and marked Exhibit "D."

5.

That thereafter, and on the 10th day of July, 1912, said Duval Jackson sent a telegram to the trustee of the above-entitled estate, withdrawing said proposals to purchase the property of said bankrupt, without showing any cause therefor; a copy of which is attached to the petition of Duval Jackson and marked Exhibit "E."

6.

That on the same day said Duval Jackson also sent a telegram to the said Referee withdrawing said bids; a copy of which is attached to the petition of Duval Jackson and marked Exhibit "F."

7.

That on the 10th day of July, 1912, said Duval Jackson mailed two written withdrawals of the proposals to purchase the property of said bankrupt, for the sum of \$140,000; copies of which are attached to the petition of Duval Jackson and marked Exhibits "G" and "H." [29]

8.

That said written withdrawals were received by the Referee on the 15th day of July, 1912, at 8:45 o'clock A. M., two hours and fifteen minutes before the hour set for the meeting of the creditors called for the purpose of confirming said sale.

9.

That on the 15th day of July, 1912, notwithstanding the notices of the withdrawals of said proposals to purchase the property of the bankrupt, an order

was made by the Court herein, confirming the sale of the property mentioned in said proposals to purchase, excepting certain lumber and logs mentioned in said notice of sale; a copy of said Order of Confirmation is attached to the petition of Duval Jackson and marked Exhibit "I."

10.

That thereafter on *the* July 26th, 1912, said Referee confirmed the sale of about 300,000 feet of cedar logs of said bankrupt, and all of the lumber of said bankrupt, described on pages 1 to 18, inclusive, of the Appraisers' Report filed in this court, said lumber and logs being the same as excepted from the Order of Confirmation of the Sale to the said Duval Jackson that a copy of said Order Confirming the Sale of said Lumber is attached to the petition of Duval Jackson and marked Exhibit "J."

11.

That the reason the Referee excepted said lumber and logs from the Order Confirming said Sale is set forth in the petition for confirmation thereof heretofore referred to.

12.

That said Duval Jackson well knew that on August 1st, 1912, there would be due and payable to the Northern Trust Company of Chicago, Illinois, the sum of \$12,500 and interest, on the bonded indebtedness of the bankrupt, and that he further [30] knew that the trustee had no money on hand with which to pay said indebtedness and that the trustee was relying upon the fulfilment of said Duval Jackson's purchase in order to raise said sum for said purpose.

13.

That the trustee herein did everything on his part to be done as required by said proposals to purchase.

14.

That nothing was done by the trustee to affect the title to the property covered by said Duval Jackson's bid until after said Duval Jackson attempted to withdraw it.

15.

That the trustee demanded and received said \$2,000 earnest-money from said Duval Jackson for the purpose of assuring the estate of the good faith of said Duval Jackson.

16.

That it was agreed between the trustee and said Duval Jackson if said sale was not consummated on account of any default on the part of said Duval Jackson, that he should forfeit the said \$2,000, which agreement is set forth in writing and is a part of said bids heretofore referred to.

CONCLUSIONS OF LAW.

As a conclusion of law from the foregoing facts, the Court finds that the Referee's order complained of by the trustee should be reversed, vacated and set aside, and costs taxed against said Duval Jackson.

Dated this 3d day of December, 1912.

(Signed) FRANK S. DIETRICH,

District Judge.

[Endorsed]: Filed Dec. 6th, 1912. A. L. Richardson, Clerk. [31]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

Memorandum of Decision on Petition for Review.

December 3, 1912.

E. N. LA VEINE,

Attorney for the Trustee in Bankruptcy.

REED & BOUGHTON,

Attorneys for Claimant, Duval Jackson.

DIETRICH, District Judge:

On November 11, 1912, the referee in bankruptcy made an order requiring the trustee to refund to Duval Jackson the sum of \$2,000.00 which had theretofore been placed in his hands as a guarantee by Jackson of his good faith in making two separate bids for property belonging to the bankrupt estate; \$1,000.00 accompanied each one of the two bids. The trustee, feeling aggrieved by the order, has brought the record here upon a petition for review. It seems that before the referee the matter was submitted upon the claimant's petition, the trustee's answer thereto, and the pertinent files in the bankruptcy proceedings together with admissions by counsel of facts which are not clearly disclosed; no evidence was taken. The petition for review has been submitted in substantially the same manner here, and from record, together with the construction which it is agreed between counsel should be

placed thereon, the uncontroverted facts may be briefly stated as follows:

Of date June 24, 1912, the claimant delivered to the [32] trustee two separate written bids or offers for two distinct parcels of property belonging to the bankrupt estate, one parcel consisting largely, if not exclusively, of timber lands, and the other a saw-mill and a large amount of other property more or less directly connected therewith. With the exception of the description of the property the bids are in substantially the same form. Referring now to the one covering the timber lands, after proposing to buy the lands which are described, the bidder uses the following language: "As an evidence of my good faith in making this bid, I hand you herewith the sum of \$1,000, and I offer you for the said timber land \$70,480.60," etc. Later on in the instrument the following language is used: "Should you fail to accept this bid, or fail to have your acceptance confirmed by the Court, and be thereby not enabled to consummate the conditions specified in this proposal, then and in that event you are to return to me the said sum of \$1,000 hereby deposited with you as evidence of good faith," and the closing paragraph is as follows: "Should this proposal to purchase be accepted by you and approved by the Court, it is with the distinct and express understanding of all parties concerned that the damage for failure on my part to complete the fulfillment of any part of this proposal, is to be limited to such payments as have been made."

Other parts of the instrument setting forth certain

conditions are not presently material, for the reason that no question is raised as to the willingness or ability of the trustee to comply therewith.

On the 27th day of June, 1912, the trustee filed with the referee the original bids and also his report and petition showing that, so far as he was concerned, they were acceptable, and praying for a confirmation of the sale of the property accordingly. Thereafter, on the 28th day of June, the referee made an order fixing July 15th, 1912, as the time for the hearing upon the petition, and gave notice of such hearing to all [33] parties interested. Thereafter, on July 10th, Jackson sent two telegrams, one to the trustee and one to the Referee, advising them of his desire to withdraw his bids, and upon the same day he mailed a formal withdrawal in writing to the referee, which was received and filed on the morning of July 15th, 1912, a short time before the hour set for the hearing. Neither in the telegrams nor in the formal instrument of withdrawal was any reason given for the withdrawal. At the ensuing hearing the referee made an order confirming the sale of the timber lands in accordance with Jackson's bid theretofore, and also the sale of the mill and other property covered by the other bid, with the exception of certain logs and lumber included therein. Thereafter, on the 7th day of October, 1912, Jackson filed a petition praying for an order directing the trustee to return to him the \$2,000, to which in due time the trustee filed his answer. From these pleadings and the papers therein referred to, together with

the explanations and statements of counsel upon both sides, it appears that the only reason why the sale of the mill and the other property covered by one of the offers was not confirmed to Jackson fully in accordance with his offer, and certain logs and lumber were excepted was that, in order to meet an installment sooner thereafter to become due upon a certain secured claim against the estate, it was necessary for the trustee to procure funds and his only resource was a sale of the excepted property. And it further appears that had Jackson not declined to keep good his agreement, there would have been no exception in the order of confirmation, but both sales would have been confirmed strictly in accordance with the bids. In other words, the only reason for making the exception was the necessity imposed upon the trustee by reason of Jackson's inclination to keep good his offer, and of this exigency the latter had a full knowledge. It is doubtless true, as argued by counsel for the claimant, and it is here assumed, that if Jackson had not declined to [34] proceed the order of the referee confirming the sale to him of only a part of the property covered by the one bid would not have imposed upon him any obligation to complete the purchase under that bid. To bind him it would have been necessary to confirm the sale strictly in accordance with the offer, but in view of his notice to the trustee and the referee before the hour for the hearing that he would not complete the purchase and would not carry out the terms of his agreement, this feature of the case becomes unimportant. This notification made it unnecessary

for either the trustee or the referee to take any further steps; having given notice of his unwillingness to perform, Jackson cannot complain that the trustee did not thereafter go through the idle ceremony of procuring a confirmation of the sale. Incidentally it is to be noted that this objection, even were it valid, is applicable to only one of the bids, for one of the sales was confirmed in its entirety.

With this statement of the facts, we come to the consideration of the precise question, and the only question, certified for review by the referee, namely: Had Jackson the legal right to withdraw his bids prior to the confirmation by the referee? This, it is conceded by counsel for both sides, is the controlling feature of the case, and it is the only question which has been discussed. It is thought that the answer must be the negative. It is argued that an offer does not become a binding agreement until the same is accepted, and that one who makes a bid may withdraw the same at any time prior to its acceptance. Generally speaking, this may be conceded to be a correct statement of the law. It is further contended that there was no acceptance of or consideration for the offer or agreement, and therefore it never became binding upon Jackson. But upon an analysis of the facts and conditions the fallacy of these contentions will readily appear. The trustee was possessed of a large amount of property which he desired to turn into [35] money for the purpose of meeting the obligations of the estate. It appears not only that the estate was sorely in need of funds but that the property was deteriorating in value.

Informed as to the nature and value of the property, and of the desire of the trustee to sell the same, and of the trustee's need for funds Jackson executed and delivered to the trustee his written offer and together therewith placed in his hands \$1,000.00 as an assurance of his good faith and his intention to make the purchase in accordance with the stipulated conditions. The trustee accepted the offer so far as it was legally possible for him so to do. With promptness he prepared and filed with the referee his report and petition asking for a confirmation of the sale, which he approved as being for the best interests of the estate. The referee thereupon made an order fixing the day for the hearing, and gave notice of such hearing.

Necessarily expenses were incurred in taking these proceedings and time was lost. There was an acceptance and a partial performance on the part of the trustee; the estate parted with a consideration. Having induced the officers to refrain from looking elsewhere for a purchaser, and to incur expenditures in reliance upon his promises, Jackson cannot be heard to say there was no consideration. By his bid he in substance either expressly or by reasonable implication agreed to take the property described, provided the estate would give him good title within a reasonable length of time. No time was fixed for the consummation of the proceedings requisite to enable the trustee to convey title, but in the absence of an express agreement a reasonable time is to be implied. There is no pretension that the trustee or the referee was dilatory or that a reason-

able time had elapsed. If Samuel L. Boyd, the trustee here, had owned this property in his own right, and Jackson had concluded to purchase the same provided a good title could be given, and if it was brought to his attention that certain other persons were claiming title to the property, and if, under such conditions, [36] he had made an offer in substance like one of these bids, by which he agreed to take the property at a certain stipulated price upon condition that, and when, Boyd should secure a final decree in a court of competent jurisdiction quieting his title as against the claims of such third persons, and if, accompanying such offer, he had delivered to Boyd \$1,000 as evidence of his good faith, to be held and forfeited or refunded substantially upon the conditions named in one of these bids, and if thereupon Boyd had employed counsel and commenced a suit to quiet title, and had caused the process of the Court to be served upon the adverse claimants, would it be contended that after Boyd had incurred such expenses, Jackson could, the hour before a decree quieting title was to be entered, recede from his offer and demand a return of the forfeit money, leaving Boyd without any relief for the prejudice he had suffered by delay and for the expenses which he had incurred? In principle I am unable to distinguish the supposed case from the one under consideration. If such an offer was understood to be subject to withdrawal at the option of Jackson at any time before confirmation, the cash deposit was a mere sham and of no value whatever. By neither party have I been furnished with any citations di-

rectly in point. Upon behalf of the claimant authorities have been invoked which go to the extent only of holding that in ordinary dealings between private individuals an offer does not become a binding contract until the same has been accepted by the party to whom it is made, and accepted strictly in accordance with its terms. On behalf of the trustee the case of *In re Miller*, 171 Fed. 263, has been referred to as throwing some light upon the general principles involved. Perhaps more nearly in point are *Bloosom v. Milwaukee Railroad Co.*, 1 Wall. 656; 17 L. Ed. 673, and *Camden v. Mayhew & Co.*, 129 U. S. 73; 32 L. Ed. 608. It is thought that the principles upon which these cases were decided are in harmony with and support the conclusion here reached. Accordingly the referee's order complained of by the trustee will be reversed.

[Endorsed]: Filed Dec. 3, 1912. A. L. Richardson, Clerk. [37]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

449.

In the Matter of the LANE LUMBER COMPANY,
LIMITED, a Corporation,

Involuntary Bankrupt.

DUVAL JACKSON,

Petitioner,

vs.

SAMUEL L. BOYD, Trustee of the LANE LUM-
BER COMPANY, Limited, a Corporation,
Bankrupt.

Decree.

This cause being the Petition for Review by the Trustee of the Order made and entered herein by the Referee requiring the trustee to pay Duval Jackson Two Thousand (\$2,000.00) Dollars, paid on the purchase price of the assets of the bankrupt, came on to be heard at this term and was argued, E. N. La Veine appearing as counsel for the trustee, Samuel L. Boyd and Reed & Boughton appearing as counsel for the claimant, Duval Jackson; the Court having heard and considered the issues as joined by the pleadings herein, the allegations in the pleadings not denied being admitted, and having made and entered its Findings of Fact and Conclusions of Law; and thereupon consideration thereof, it was

ORDERED, ADJUDGED AND DECREED that the Order of the Referee made and entered herein on November 21st, 1912, from which order this review is taken by the trustee, in accordance with the memorandum decision herein, be and the same is hereby reversed, vacated and set aside, and costs taxed against said Duval Jackson.

Dated this 3d day of December, 1912.

(Signed) FRANK S. DIETRICH,
District Judge.

[Endorsed]: Filed Dec. 6, 1912. A. L. Richardson, Clerk. [38]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

UNITED STATES OF AMERICA.

District of Idaho,—ss.

I, A. L. Richardson, Clerk of the United States District Court for the District of Idaho, do hereby certify that the foregoing copies of petition for repayment of money, answer to petition of Duval Jackson for refund of \$2,000.00, order, findings of fact and conclusions of law, decree, and memorandum decision, in the Matter of Lane Lumber Company, Bankrupt, have been by me compared with the originals and that it is a correct transcript therefrom and of the whole of such originals as the same appears of record and on file at my office and in my custody.

In testimony whereof, I have set my hand and affixed the seal of said court in said district this 16th day of January, 1913.

[Seal]

A. L. RICHARDSON,

Clerk.

[Acceptance of Service of Petition, etc.]

Service of the foregoing petition is hereby accepted by receipt and retention of a true copy thereof this 21st day of January, 1913; and consent is hereby given to filing said petition without further notice on behalf of said petitioner, a copy of the printed record to be served on respondent when same is printed.

E. N. LA VEINE,

Attorney for Samuel Boyd, Trustee, Respondent.

[Endorsed]: No. 2243. United States Circuit Court of Appeals for the Ninth Circuit. Duval Jackson, Petitioner, vs. Samuel L. Boyd, as Trustee in Bankruptcy of The Lane Lumber Company, Limited, a Corporation, Bankrupt, Respondent. In the Matter of The Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt. Petition for Revision under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, the Decree of the United States District Court for the District of Idaho, Northern Division.

Filed January 25, 1913.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

